



[Notice 2023-01]

Notice of Public Hearing and Request for Public Comments

AGENCY: Federal Election Commission.

ACTION: Notice of public hearing and request for public comments.

SUMMARY: The Federal Election Commission seeks public comment on its policies and procedures regarding the auditing of political committees that do not receive public funds. The Commission also is announcing a public hearing on its audit procedures.

DATES: Comments must be submitted on or before [INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. A hybrid public hearing will be held on a later date at the Federal Election Commission, 1050 First St. NE, 12th floor Hearing Room, Washington, DC 20463, and virtually. The Commission will publish a notification of hearing in the Federal Register announcing the date and time of the hearing. Anyone seeking to testify at the hearing must file written comments by the due date and must include in the written comments a request to testify.

ADDRESSES: All comments must be in writing. Commenters may submit comments by email to audit2023@fec.gov.

Each commenter must provide, at a minimum, his or her first name, last name, city, and state. All properly submitted comments, including attachments, will become part of the public record, and the Commission will make comments available for public viewing on the Commission's website and in the Commission's Public Records Office. Accordingly, commenters should not provide in their comments any information that they do not wish to make public, such as a home street address, date of birth, phone number, social security number, or driver's license number, or any information that is restricted from disclosure, such as trade secrets or commercial or financial information that is privileged or confidential.

FOR FURTHER INFORMATION CONTACT: Ms. Amy L. Rothstein, Assistant General Counsel, or Ms. Joanna S. Waldstreicher, Attorney, Office of the General Counsel, at audit2023@fec.gov or 202-694-1650.

SUPPLEMENTARY INFORMATION: The Commission administers the Federal Election Campaign Act,¹ in relevant part, through a review of disclosure reports that are filed with the Commission. When the Commission's review of a non-publicly-funded political committee's disclosure reports indicates that the reports appear not to have met the threshold requirements for substantial compliance with the requirements of the Act, the Commission may conduct an audit of the committee to determine whether the committee complied with the Act's limitations, prohibitions and disclosure requirements.² The Commission's procedures regarding these audits are primarily set forth in Directive 70: FEC Directive on Processing Audit Reports;³ Procedural Rules for Audit Hearings;⁴ and a program for requesting consideration of legal questions by the Commission.⁵

In the course of addressing its administrative responsibilities, the Commission periodically reviews its programs to ensure that it is fulfilling its mission of enforcing and administering the Act while continuing to afford due process and efficiency to political committees. The purpose of this Notice is to reexamine the Commission's policies and

¹ 52 U.S.C. 30101-45.

² 52 U.S.C. 30111(b). The Commission is required by law to audit presidential committees that receive public funds. 52 U.S.C. 30111(b); 26 U.S.C. 9007(a), 9038(a).

³ https://www.fec.gov/resources/cms-content/documents/directive_70.pdf (adopted in 2010 and last modified in 2011).

⁴ 74 FR 33,140 (July 10, 2009) and Correction, 74 FR 39,535 (August 7, 2009).

⁵ Policy Statement Regarding a Program for Requesting Consideration of Legal Questions by the Commission, 84 FR 36,602 (July 29, 2019) (updating Commission's contact information, recounting history of similar changes to program since adopted in 2011, and publishing current policy in full); Directive 69: FEC Directive on Legal Guidance to the Office of Compliance, https://www.fec.gov/resources/cms-content/documents/directive_69.pdf (adopted in 2010).

procedures regarding the auditing of political committees that do not receive public funds, and to give the regulated community and representatives of the public an opportunity to bring before the Commission comments and concerns about its audit process. The Commission will use the comments received to help determine whether internal directives or practices should be adjusted, and if so, how. The Commission is not, in this notice, seeking comment on its policies, practices, and procedures regarding audits of publicly funded committees.

The Commission seeks comments addressing the audit process since the most recent changes were made over ten years ago: for example, the Rules for Audit Hearings in 2009, Directives 69 and 70 in 2010, and the Program for Requesting Consideration of Legal Questions in 2011. For example, are committees being given sufficient opportunity to be heard by the Commission during the audit process? Has the audit process become more complex, costly, or inefficient? What can the Commission do to improve the audit process?

The Commission welcomes comments on how it might increase fairness, substantive and procedural due process, efficiency, and effectiveness of the Commission's auditing of political committees, and how the audit function could best serve the Commission's mission and enhance disclosure and compliance with the Act. The Commission is particularly interested in hearing from committees that have directly interacted with the Commission in the audit process, and their counsel, on how the Commission's audit policies and procedures have facilitated or hindered committees' productive interaction with the agency and substantial compliance with the Act.

On behalf of the Commission,

Dara S. Lindenbaum,
Chair, Federal Election Commission.

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